

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures--Hearings

Article 2. Administrative Hearing Procedures for Petitions for Review of Executive Officer Decisions

Subarticle 8. Decisions of the Hearing Officer

§ 60055.38. Proposed Order or Decision of the Hearing Officer after Petition for Review Hearing; Order or Decision of the Board.

(a) Unless otherwise ordered, all hearings on petitions for review shall be submitted at the close of the hearing unless otherwise extended by the hearing officer or provided in these rules. Within a reasonable period of time after the proceeding is submitted, the hearing officer shall make findings upon all facts relevant to the issues for hearing, and file a proposed order or decision with the reasons or grounds upon which the order or decision was made.

(b) The proposed order or decision shall be in writing, signed and dated by the hearing officer deciding the proceeding.

(c) The hearing officer shall immediately certify the administrative record and forward it, together with a copy of the proposed order or decision, to the clerk of the board. Within 30 days after receipt of the proposed order or decision, the clerk of the board shall serve a copy of the proposed order or decision on each party to the proceeding or its representative and shall issue a public notice that the state board will conduct a public hearing to consider adoption of the proposed order or decision of the hearing officer. At the public hearing, the state board may take any of the following actions:

(1) Adopt the proposed order or decision in its entirety.

(2) Make technical or other minor changes to the proposed order or decision and adopt it as its own. Actions under this subparagraph are limited to clarifying or other changes that do not affect the factual or legal basis of the proposed decision.

(3) Refer the matter back to the hearing officer for the taking of additional evidence, or order that additional evidence be taken at a hearing before the state board itself. If the matter is remanded to the hearing officer, the hearing officer shall issue and serve upon the parties a new proposed order or decision based upon the new evidence that has been received. In such an event, the state board shall consider the newly proposed order or decision under the procedures set forth in this section.

(4) Issue its own written order or decision, based on the administrative record and any additional evidence presented during the public hearing, setting forth findings of fact and conclusions of law regarding all issues necessary to support the order or decision.

(d) The clerk of the state board shall serve a copy of the order or decision of the state board on the petitioner, other parties to the proceedings, and any member of the public who has requested a copy. The state board shall specify in the order or decision the date that order or decision becomes effective.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); and Section 43105, Health and Safety Code.

REFERENCE